

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:19-CR-00304-2

RANDALL LEE PEGGS,  
a.k.a. RANDY PEGGS

**MEMORANDUM OPINION AND ORDER**

Pursuant to this court's earlier Order, (ECF No. 19), a jury trial was set in this case for March 31, 2020, and proposed voir dire questions, jury instructions, and witness lists were due by March 24, 2020. The court hereby **ORDERS** that the jury trial be **CONTINUED** to May 5, 2020, at 9:30 a.m. in Bluefield. Proposed voir dire questions, jury instructions, and witness lists are due to the court by April 28, 2020.

Because it appears to the court that defendant Randall Lee Peggs has a co-defendant who has not yet appeared before the court and no motion for severance has been made,<sup>1</sup> the court finds that this period of delay shall be excluded in computing the time within which the trial of any such offense must commence. See 18 U.S.C. § 3161(h)(6) ("A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom

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<sup>1</sup> On this point, the court directs the government to give an update to the court regarding the status of the co-defendant so that the court may best determine if, and the possible length of, any additional "reasonable" delays. See 18 U.S.C. § 3161(h)(6).

the time for trial has not run and no motion for severance has been granted.”). The court finds that the delay of 35 days is a reasonable period for continuance. Additionally, pursuant to the General Order issued by Chief Judge Thomas E. Johnston on March 13, 2020, the court has been directed to continue all criminal jury trials in the Southern District of West Virginia. See In Re: Court Operations Under the Exigent Circumstances Created by the COVID-19 Pandemic, No. 2:20-mc-00052 (S.D.W. Va. March 13, 2020) (Johnston, C.J.). In ordering the continuance of defendant’s trial in this matter, the court finds that due to the current danger to the public health caused by COVID-19, the ends of justice served by ordering the continuance outweigh the interests of the public and the defendant’s right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A). In so finding, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that a failure to order this continuance “would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.” Id. § 3161(h)(7)(B)(i).

Accordingly, the court hereby **ORDERS** as follows:

- I. Proposed Jury Instructions, Proposed Voir Dire, and Proposed Witness Lists are due to the court by **April 28, 2020;**

II. Trial of this action is continued until **May 5, 2020, at 9:30 a.m. in Bluefield;**

III. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from March 31, 2020, to the new trial date of May 5, 2020, is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 23rd day of March, 2020.

**ENTER:**

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge